

# TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER:

0 1 \_ 1 2

2. STATE:

Texas

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL  
SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR  
HEALTH CARE FINANCING ADMINISTRATION  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

October 1, 2001

5. TYPE OF PLAN MATERIAL (Check One):

☐ NEW STATE PLAN

☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN

☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:

42 CFR Part 483

7. FEDERAL BUDGET IMPACT: See Attachment

a. FFY 2002 \$ 411,550

b. FFY 2003 \$ 60,198

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

See Attachment

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION  
OR ATTACHMENT (If Applicable):

See Attachment

10. SUBJECT OF AMENDMENT: Amendment 607 will revise the rate setting methodology for those small  
non-state operated ICFs/MR which admit consumers directly from a large state-operated facility.

11. GOVERNOR'S REVIEW (Check One):

☐ GOVERNOR'S OFFICE REPORTED NO COMMENT

☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

☒ OTHER, AS SPECIFIED:

Sent to Governor's Office this date. Comments, if  
any, will be forwarded upon receipt.

12. SIGNATURE OF STATE AGENCY OFFICIAL:

Linda K. Wertz

13. TYPED NAME:

Linda K. Wertz

14. TITLE:

State Medicaid Director

15. DATE SUBMITTED:

September 28, 2001

16. RETURN TO:

Linda K. Wertz

State Medicaid Director

Health and Human Services Commission

Post Office Box 13247

Austin, Texas 78711

## FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:

3 OCTOBER, 2001

18. DATE APPROVED:

27 NOVEMBER 2001

## PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

1 OCTOBER 2001

20. SIGNATURE OF REGIONAL OFFICIAL:

Calvin G. Cline

21. TYPED NAME:

CALVIN G. CLINE

22. TITLE: ASSOCIATE REGIONAL ADMINISTRATOR

DIV OF MEDICAID & STATE OPERATIONS

23. REMARKS:

Program.

10. **Rebase.** The revision to the underlying assumptions on which the modeled rates are calculated, including revisions to staffing ratios, pay structure, the composition of direct care staff, or other cost factors used in the formula for modeling the rates.
11. **State-operated facility.** An ICF/MR for which TDMHMR is the provider.
12. **Non-state operated facility.** An ICF/MR that is not under the direct control of TDMHMR. This includes both private providers and providers affiliated with the local public mental health and mental retardation center.
13. **Related Party.** Two or more individuals or organizations constitute related parties whenever they are affiliated or associated in a manner that entails some degree of legal control or practical influence of one over the other.
14. **Transitional add-on.** An additional amount added to the small non-state operated facility rate for a consumer who is admitted directly from a large state-operated facility to a small non-state operated facility on or after October 1, 2001. The add-on will be paid for no more than six months from the effective date of the consumer's admission to the small non-state operated facility.
15. **Unallowable costs.** Expensed that are not reasonable or necessary for the provision of ICF/MR services.

### III. Allowable and Unallowable Costs

- A. **General Principles.** Allowable and unallowable costs, both direct and indirect, identify expenses which are reasonable and necessary to provide ICF/MR services and are consistent with federal and state laws and regulations. The primary determinant of allowability is whether or not the cost is consistent with the criteria set forth in GAAP and federal circular OMB A-87, Attachment B. This circular is not comprehensive, and the failure to identify a particular cost does not necessarily mean that the cost is an allowable or unallowable cost.
- B. **Specifications for allowable and unallowable costs.** The primary criteria of allowability is whether or not the cost meets the definitions as set forth in the federal circular OMB A-87,m Attachment B. Except where specific exceptions are noted, the allowability of all costs is subject to the general principles in circular OMB A-87, Attachment B. The following are exceptions, or elaborations, to circular OMB A-87, Attachment B:
  1. **Accounting and audit fees.** Except for Schedule C or Partnership tax returns related to an ICF/MR provider, expenses for preparation of personal tax

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- (2) limited-.limited personal care and/or close supervision is required to meet the consumer's needs;
  - (3) extensive-extensive personal care and/or constant supervision is required to meet the consumer's needs;
  - (4) pervasive-total personal care or intense supervision is required to meet the consumer's needs; and
  - (5) pervasive plus-the consumer requires a constant daily staffing ratio of 1:1 on an average of 16 waking hours per day.
5. **Uniform rates.** Except for demonstration or pilot projects involving experimental classes, reimbursement rates for levels of need are uniform state wide for the same class of non-state operated facilities.
6. **Transitional add-on.** The add-on is a modeled proforma rate based on incremental staff needs to cover short term extraordinary services including nursing, psychologists and direct care staff. The transitional add-on rate includes provision for five (5) hours of nursing, ten (10) hours of psychologist, and twenty (20) hours of direct care workers each week. The hourly rate for nursing, psychologist and direct care workers is based on an average of actual sample data collected statewide for the ICF/MR program. The rate will be reviewed annually to determine if adjustments are appropriate. The transitional add-on will be paid for 180 calendar days on a consumer-specific basis to small non-state operated facilities that admit a consumer directly from a large state-operated facility on or after October 1, 2001. The transitional add-on will be paid in addition to the standard daily rate for a consumer, including behavioral or medical increases as described in V.B.4.(b) for 180 calendar days from the consumer's effective date of admission to the small non-state operated facility to assist the consumer in the transition period.
7. **Prospective rates.** Historical costs are analyzed by component and adjusted by inflationary indices to be prospective in nature with no annual settlement. The rate setting parameters or decisions within Each model rate are developed based on reasonable and adequate costs which the state determines appropriate to provide services in an economic and efficient manner.
8. **Medical services and durable medical equipment covered as ICF/MR services.** Individuals that reside in non-state operated ICF/MR facilities receive medical and dental services through the Medicaid identification card. With the exception of the durable medical equipment described in subparagraphs (a)-(d) any medical expenses other than services covered elsewhere in the State plan are the responsibility of the ICF/MR provider. TDMHMR will pay ICF/MR providers for the actual cost of a consumer's durable medical equipment costs reimbursed through a voucher system if:
  - (a) the cost of the equipment exceeds \$1000.00
  - (b) the ICF/MR provider receives prior approval from TDMHMR to purchase the equipment;
  - (c) the ICF/MR provider submits a voucher to TDMHMR for the cost of the equipment; and
  - (d) the consumer is eligible for Medicare

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benefits, the ICF/MR provider has submitted a Medicare claim and received a response to the claim prior to requesting payment from TDMHMR. Payment by TDMHMR is limited to \$5,000.00 for durable medical equipment per consumer per year. Costs reimbursed through the voucher system are not used in setting the reimbursement rates for ICF/MR services.

9. **Cost components.** Medicaid rates are paid to non-state operated ICF/MR providers as determined by the processes outlined in V.B.3.-V.B.11. of Attachment 4.19-D (ICF/MR). The modeled rates are based on cost components appropriate for an economic and efficient ICF/MR provider of quality services as shown below. The determination of these components is based on historical costs; and financial, statistical, and operational information collected from a representative sample of ICF/MR providers. They represent the best judgment of the State as to the reasonable and adequate reimbursement required to cover the costs of economic and efficient ICF/MR facilities. Included in the costs are:
- (a) Direct service costs, including salaries, wages and benefits for the appropriate level of direct care staffing for the level of need. Direct care supervision salaries, wages and benefits and contracted direct care services are also included.
  - (b) Non-personnel operated expenses which include direct service staff travel and mileage costs, program related supplies, training costs, drugs and medical supplies, transportation equipment and related costs, durable medical equipment and other related costs.
  - (c) Office and facility related expenses including housekeeping/linen and bedding supplies, maintenance supplies, contract maintenance and repairs, building and building equipment, rental/lease and depreciation, salaries and benefits for office/facility related personnel, land and leasehold improvement, depreciation/amortization, mortgage interest, property taxes, property insurance, and utilities and telecommunications.
  - (d) Administration expenses which include salaries and benefits for administrative personnel such

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as facility administrator, clerical support and central office staff, management contract fees, professional service fees, contracted administrative staff, general liability insurance, interest expense on working capital, allowable advertising, travel and seminars, dues and subscriptions, office supplies, central office costs and other office expenses.

- (e) Professional consultation expenses including professional contracted services for non-direct care staff (e.g., Medical Director, consulting pharmacists).

10. **Data analysis.** For the initial model based rates, a representative sample determined by an independent consultant was chosen to include providers of different sizes, providers who serve individuals with different level of care needs, and geographic areas of the state. Both public and private non-state operated providers were chosen. Cost, financial, statistical, and operational information was collected during the site visits performed by an independent consultant. These data were collected from cost reports and the service providers' accounting systems. The same process will be used with the rebasing sample. The panel reviews and analyzes the fiscal year 1996 state wage data, the fiscal year 1994 cost data and the fiscal year 1995 sample data from 17 ICF/MR service providers statewide. The base year is calendar year 1997. The rate year is each calendar year thereafter.
- (a) The level of need assessment criteria is used to identify ICF/MR consumers according to the level of resources needed to care for them. HHSC uses the level of need criteria with available cost data to calculate rates by Level of need and facility size (see section V.B.4. of Attachment 4.19-D).
  - (b) All non-state operated ICF/MR providers will be required to prepare and submit annual Fiscal Accountability Cost Reports (direct Service wages, Benefits, contract service, and staffing information). The state will use this information to compare direct service cost to direct service reimbursement and to determine if rates need to be rebased more

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frequently.

- (c) At least every four years, a more detailed analysis of current cost and operations information will be preformed for a representative sample of non-state operated providers determined by an independent consultant. This data will plus the fiscal accountability reports will be analyzed by HHSC and reviewed by a panel of experts and the public. Recommendations will be made to HHSC regarding any needed changes to rate factors in the model based on this sample information.

11. **Annual adjustments.** Annual rates for the time period between the years that modeled rates are rebased are set (at January 1) by inflating the previous year's direct cost rates, and other costs inflated as a percentage of direct costs, by the IPD-PCE as defined in Section VI of Attachment 4.19-D (ICF/MR). These rates are uniform by class of facility and client level of need category, determined prospectively, and adjusted annually. There is no cost settlement.
12. **Rebasing the Non-State Operated Modeled Rates.** At least every three years, HHSC will rebase the non-state operated modeled rates using the following process:
- (a) HHSC will seek to obtain an independent consultant to conduct detailed analysis of cost and operational information for a representative sample of ICF/MR providers throughout the state in accordance with Texas Government Code, Chapter 2254, which provides a state agency with the authority to contract with a private consultant. This representative sample will be determined by the independent consultant. Comprehensive cost reports will be completed by all providers in the representative sample. All other providers will complete the direct service cost reports which will be used to ensure costs are covered that must be incurred by an economic and efficient ICF/MR provider.
- (b) Site visits will be made to each of the sample providers to collect cost data and discuss operations.
- (c) An advisory panel consisting of ICF/MR

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**DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services**

**Calvin G. Cline**

**Associate Regional Administrator, Medicaid and State Operations**

1301 Young Street, Room 827  
Dallas, Texas 75202  
Phone (214) 767-6301  
Fax (214) 767-0270

November 27, 2001

Our reference: SPA-TX-01-12

Ms. Linda K. Wertz, State Medicaid Director  
Texas Health and Human Services Commission  
Post Office Box 13247  
Austin, TX 78711

Dear Ms. Wertz:

We have reviewed the proposed amendment to your Medicaid State plan submitted under transmittal no. (TN) 01-12, including the revisions submitted on November 19, 2001. Effective October 1, 2001, this amendment revises the reimbursement methodology for ICF/MR services. This amendment provides for additional payments to cover the transition costs of small non-state operated ICF/MRs that admit patients directly from large state operated ICF/MRs. Small non-state ICF/MRs will receive the additional payments for 180 days after the admission of the patient.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(13)(A) and 1902(a)(30) of the Social Security Act and the implementing federal regulations at 42 CFR 447 Subpart C. We have approved the amendment for incorporation into the official Texas State plan effective on October 1, 2001. We have enclosed a copy of HCFA-179, TN 01-12, dated November 27, 2001, and the amended plan pages.

If you have any questions, please call Billy Bob Farrell at (214) 767-6449.

Sincerely,

Calvin G. Cline  
Associate Regional Administrator  
Division of Medicaid and State Operations

Enclosures

cc: Elliot Weisman, CMSO, PCPG  
Commerce Clearing House

